

1 Tuesday, 18 June 1946

INTERNATIONAL MILITARY TRIBUNAL  
FOR THE FAR EAST  
Court House of the Tribunal  
War Ministry Building  
Tokyo, Japan

The Tribunal met, pursuant to adjournment,  
at 0930.

### Appearances:

For the Tribunal, same as before.

For the Prosecution Section, same as before.

For the Defense Section, same as before with the exception of CAPTAIN BEVERLY M. COLEMAN USNR, Chief of Counsel, who has resigned.

### (English to Japanese and Japanese

to English interpretation was made by OKA, Takashi and TSUCHIYA, Jun, Hidekazu Hayashi acting as Monitor.)

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1                   MARSHAL OF THE COURT: The International  
2                   Military Tribunal for the Far East is now resumed.

3                   THE PRESIDENT: All the accused are present  
4                   except OKAWA and MATSUOKA who appear by their  
5                   respective counsel.

6                   Before the trial proceeds, does any counsel  
7                   desire to mention any matter?

8                   LIEUT. LAZARUS: Mr. President, I am  
9                   Lieutenant Lazarus, United States Marine Corps,  
10                   American counsel for Field Marshal Shunroku HATA.

11                   - - -

12                   D O N A L D   R O S S   N U G E N T , Lieutenant  
13                   Colonel, called as a witness on behalf of the  
14                   prosecution, resumed the stand and testified  
15                   as follows:

16                   CROSS EXAMINATION (Continued)  
17                   BY LIEUTENANT LAZARUS:

18                   Q Yesterday, I believe the Colonel told us  
19                   he received his schooling at Stanford University.  
20                   Is that correct, sir?

21                   A That is right.

22                   Q And in 1937 the Colonel came to Japan where  
23                   he observed military training being given in the  
24                   schools. Is that correct, sir?

25                   A That is right.

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1                   THE PRESIDENT: Lieutenant Lazarus, those are  
2 unnecessary questions. Since every question has to  
3 be translated, I would like you to be very brief.

4                   LIEUT. LAZARUS: Yes, sir.

5                   Q    Does the Colonel know if at the same time,  
6 about 1937, in the United States in our high schools,  
7 junior colleges, prep schools, colleges and universi-  
8 ties, we had what is known as Army and Navy ROTC, Navy  
9 Junior Cadets?

10                  A    I know that such training was offered in  
11 certain institutions at which attendance was voluntary.

12                  Q    And at these various institutions, the stu-  
13 dents wore uniforms and received instruction in mili-  
14 tary matters?

15                  A    At certain institutions, that is true.

16                  Q    Did they have drills and did they use arms?

17                  A    At certain institutions, that is true.

18                  Q    And at these institutions, sir, who were the  
19 instructors, please?

20                  A    I cannot speak for all such institutions,  
21 but at many of them they were reserve officers or  
22 retired officers of the U. S. Army.

23                  Q    Did these reserve and retired army officers  
24 teach obedience?

25                  A    So far as obedience was a part of the training

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1 offered, I assume that they did.

2 Q And for many of these students, did this  
3 training lead to reserve commissions in the United  
4 States Armed Forces?

5 A Yes, it did.

6 Q And this before the United States entered the  
7 war, or even considered entering the war?

8 A Yes.

9 Q When did the Colonel enter the United States  
10 Marine Corps?

11 A I was commissioned on 10 May 1941.

12 Q Had the Colonel ever belonged to a reserve  
13 before the war?

14 A No.

15 LIEUT. LAZARUS: No further questions, sir.

16 MR. LOGAN: If it please the Tribunal:

17 CROSS EXAMINATION (Continued)

18 BY MR. LOGAN:

19 Q Colonel Nugent, you know that at land grant  
20 colleges in the United States military training is  
21 compulsory, do you not?

22 A I believe that is correct.

23 Q Do you know how many years the students in  
24 land grant colleges study military training?

25 A I believe it is two years.

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1           Q   And thereafter they can take additional  
2           courses in the summer between their sophomore and  
3           junior years and junior and senior years and receive  
4           reserve commissions, is that right?

5           A   On a voluntary basis.

6           Q   That is, it is voluntary for the last two years  
7           but compulsory for the first two years.

8           A   Is that a question?

9           Q   Yes.

10          A   My answer was to your last question in which  
11          you stated the summer training lead into a commission  
12          which is voluntary.

13          Q   But the first two years is compulsory, is  
14          that right?

15          A   I believe that is true in land grant colleges.

16          Q   Do you know how many years this system existed  
17          in the United States?

18          A   I do not know the exact number. For a con-  
19          siderable period, however.

20          Q   Prior to the First World War, isn't that true?

21          A   I cannot answer, but I believe that it was  
22          true.

23          Q   Do you know how many hours a week the stu-  
24          dents in the first and second years in land grant col-  
25          leges studied military training?

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1           A    I do not.

2           Q    In what subjects did you major in college,  
3 Colonel?

4           A    My major was Education.

5           Q    Can you let us have that in a little more  
6 detail?

7           A    I studied those courses, which are usually in  
8 the curriculum in the major field of education in a  
9 recognized university, which consist of curriculum,  
10 method, administration, supervision, et cetera.

11          Q    In what year did you graduate, Colonel?

12          A    My A.B. was in 1931.

13          Q    And what year did you receive your M.A.?

14          A    1932.

15          Q    When did you commence teaching in California?

16          A    In 1921 or '2, I am not sure.

17          Q    How many years did you teach in California?

18          A    Seven years in the public schools.

19          Q    What grade did you teach?

20          A    Elementary and junior high.

21          Q    How many years did you teach in the elemen-  
22 tary schools?

23          A    Two.

24          THE PRESIDENT: This line of cross-examination  
25 is not helpful. I can speak for all my colleagues, I

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1 am sure. We are not a jury. We can tell you just  
2 what type of cross-examination will help. This is too  
3 detailed.

4 MR. LOGAN: If the Tribunal please, these  
5 questions were directed to the witness' qualifications  
6 as an expert.

7 THE PRESIDENT: I assure you the answers that  
8 you are receiving are not helpful to us. This trial  
9 will go on for years if we permit this type of cross-  
10 examination, which is wholly useless.

11 MR. LOGAN: I shall try to be brief, then,  
12 your Honor.

13 Q Colonel, you stated yesterday in substance  
14 that thirty to forty per cent of the time of the stu-  
15 dents in Japan was spent in actual military training  
16 and in subjects which slanted towards military educa-  
17 tion. To what year were you referring when you gave  
18 that percentage?

19 A Particularly the school year of 1940-41.

20 Q What was the percentage in 1940?

21 A I would estimate it to be slightly less since  
22 there was a gradual increase, in my opinion, from '37  
23 on.

24 Q What was the percentage in 1937?

25 A I would say that it was less than in 1938.

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1           Q    Can you give that to us in percentages,  
2   Colonel?

3           A    I would have to give an estimate, and I would  
4   estimate it between twenty and thirty per cent.

5           Q    In giving these percentages, are you basing  
6   your opinion on the schools in which you taught, or  
7   the entire school system of all the schools in Japan?

8           A    On all schools of similar grade in Japan.

9           Q    Did you make a tour of the schools in Japan  
10   between the years 1937-1941?

11          A    I visited a number of schools and also talked  
12   with a number of teachers representing various schools.

13          Q    How many schools did you visit?

14          A    I should say at least a dozen schools.

15          Q    Do you know how many schools there were in  
16   Japan proper?

17          A    I do.

18          Q    How many?

19          A    Approximately 40,000.

20          Q    So that in giving these percentages, Colonel,  
21   you are not telling us your own personal knowledge, but  
22   you are basing your statement on information that has  
23   been conveyed to you by other people; is that right?

24          A    Partly on personal observation, partly on  
25   information conveyed to me by other people, partly

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1 from a study of the books and teaching materials used  
2 in the schools throughout Japan.

3 Q And the only personal observation that you  
4 made is of these twelve schools that you visited, is  
5 that right?

6 A That is right.

7 Q Now, what subjects do you claim these students  
8 were taught which you say slanted towards military  
9 training?

10 A Particularly history, morals, and geography.

11 Q Are there any other subjects, Colonel, which  
12 might slant towards military training?

13 A Almost any subject might be taught to call  
14 attention to military glory, to build certain attitudes  
15 in the student's mind.

16 Q Would you go so far as to say that all learn-  
17 ing can slant towards military training?

18 A I would say that almost any subject could be  
19 slanted toward military ideas, yes.

20 Q Could English and commercial subjects be  
21 slanted towards military training?

22 A I should say that English could be slanted  
23 toward military ideas.

24 Q I understand, Colonel, that you taught Eng-  
25 lish in Japanese schools for approximately four years.

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1           A    That is right.

2           Q    Out of this thirty and forty per cent of the  
3         time from 1940 to '41 which was spent by these students  
4         on military training and subjects slanting towards it,  
5         what was the percentage of time spent solely on mili-  
6         tary training in the year 1940-41?

7           A    There was a legal minimum of hours set up for  
8         schools of various grades ranging from one-and-a-half  
9         to three hours. In addition, field days or field  
10        exercises were authorized. But, over and above that  
11        minimum was apparently left to the discretion of the  
12        individual school.

13          Q    Did this one and a half to three hours include  
14        calisthenics and physical education?

15          A    The legal requirement was military training.

16          MR. LOCAN: If the Tribunal please, I move  
17        the answer be stricken out and the witness directed  
18        to answer the question that was given. It is not  
19        responsive.

20          THE PRESIDENT: The answer will stand for  
21        what it is worth.

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& 1           Q Colonel, can you tell me in the particular  
S 2           school in which you taught, how many hours were de-  
p 3           voted, out of the one and one-half to three hours, to  
r 4           calisthenics or physical exercise?

5           A In the combination of physical exercise  
6           plus military drill, certainly more than one and  
7           one-half to three hours were spent. Just in which  
8           periods the physical training came and military  
9           training came, I am not prepared to say.

10           Q Now then, Colonel, you are not prepared to  
11           give us an answer on that. even in the school in  
12           which you taught, is that correct?

13           A I am prepared to say that in physical train-  
14           ing plus military exercises, or military training,  
15           that a great deal more than one and one-half hours  
16           were spent each week.

17           Q I will pass that, Colonel. You also testi-  
18           fied, in substance, that in your opinion the mili-  
19           taristic teachings in the schools inculcated ultra-  
20           nationalism, fanatical devotion, blind obedience to  
21           authority, and belief in Japan's domination in the  
22           so-called Co-prosperity Sphere, and that your opinion  
23           was based on examination of certain textbooks and  
24           interviews. Now then, could you give me the name  
25           of one school book which contains these words that

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1 you described as propoganda?

2 A I can certainly give you the names of books  
3 which contain those ideas.

4 Q So this description you gave us yesterday  
5 is something that does not appear in these books.  
6 It is your interpretation of what is contained  
7 therein, is that right?

8 A That is right.

9 Q Now, Colonel, as an expert on education,  
10 you, of course, are familiar with the fact that  
11 there are many factors other than education also  
12 taught in the schools which affect a person's mind  
13 and causes reactions and demonstrations, is that  
14 not so?

15 A As an educator, and I have not stated that  
16 I am an expert in education, I am quite willing to  
17 admit that there are many things other than those  
18 taught in schools which influence a person's mind.

19 Q Can you name some of these factors for us,  
20 Colonel?

21 A Every stimilus has a certain reaction in  
22 the mind of an individual; his contacts with news-  
23 papers, his contacts with motion picture produc-  
24 tion, his contacts with radio—those are but a few  
25 of the many stimuli which may set up reactions in

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1 the minds of individuals.

2 Q Can you name some more, Colonel?

3 A I can. I can name them almost indefinitely.

4 Words of parents, conducted visits to shrines,  
5 ceremonies, contacts in the school yard, contacts  
6 with other adults, any contacts with other individuals.

7 Q Now, Colonel, assuming for the moment that  
8 what you said yesterday was true, that the Japanese  
9 in their educational system were inculcated with  
10 ultra-nationalism, fanatical devotion, blind obe-  
11 dience, and a belief in Japan's domination of the  
12 so-called Co-prosperity Sphere, is it not possible  
13 that this could have come from other influences  
14 than educational influences, such as you have just  
15 named?

16 A Any influence that changes a person's  
17 mental makeup is educational; but, if you mean formal  
18 education and school education, I am quite willing  
19 to admit that students might have been influenced  
20 by influences other than those received in formal  
21 education in the classroom.

22 Q So that, Colonel, then you cannot point to  
23 one single factor or influence and say that these  
24 came -- it and it alone caused the inculcation of  
25 these teachings contained in the conclusion you

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1       gave us yesterday. Is that not so?

2       A I can say only that its contribution was  
3       obvious.

4       MR. LOGAN: I move to strike that answer  
5       out, if the Tribunal please, on the ground that it  
6       is not responsive.

7       THE PRESIDENT: No answer will be stricken  
8       out unless it is scandalous. I do not know of any  
9       practice of striking out answers. It is quite a common  
10      thing to tell a witness to confine his answer to the  
11      question. So far as it appears necessary, I will do  
12      that now.

13      Q When you said "obvious," Colonel, you meant  
14      obvious to you, is that right?

15      A That is right. I am giving my opinion.

16      Q Now, Colonel, do you know the number of  
17      school children in Japan proper in the year 1938?

18      A Between seventeen and eighteen million in all.

19      Q And over about three hundred fifty thousand  
20      teachers in all those schools, is that right?

21      A Probably more than three hundred fifty  
22      thousand teachers.

23      Q And out of these seventeen or eighteen  
24      million school children, you testified yesterday  
25      you examined, you interviewed about three hundred or

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1 three hundred fifty?

2 A That is right.

3 Q Colonel, this military training that you  
4 have been talking about -- do you know when com-  
5 pulsory military training was introduced into  
6 Japanese schools?

7 A I believe it was around 1925.

8 Q Do you know who instituted it?

9 A I do not.

10 THE PRESIDENT: If each accused exercises  
11 his right to cross-examine witnesses, there would  
12 be twenty-eight cross-examinations. It may be  
13 necessary in some cases, but it does occur to the  
14 Members of this Tribunal that some attempt might  
15 be made for, say, one counsel to examine on gen-  
16 eral matters, and for other counsel to confine  
17 themselves to matters more particularly affecting  
18 the person he is defending. There might be an  
19 alternative that no question should be repeated.  
20 The question put by one counsel should not be re-  
21 peated by another, but something will have to be  
22 done to prevent this inquiry being unduly pro-  
23 tracted.

24 MR. SOMIYA: We shall attempt to make  
25 some adjustments concerning the point that

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1 has just been mentioned.

2 THE PRESIDENT: I would like to make sure  
3 that no accused has been cross-examined by two  
4 counsel. Some of them have a Japanese counsel and  
5 also an American counsel. Cross-examinations by  
6 two counsel, on behalf of one accused, will not be  
7 permitted. unless in special circumstances.

8 MR. LOGAN: If the Tribunal please, I  
9 would like to explain this so that there will be  
10 no misunderstanding. Yesterday, Dr. HOZUMI, who  
11 represents two accused and also represents one  
12 of the accused whom I am associated with--

13 MR. YAMAOKA: May it please your Honor, we  
14 are well aware of the problem that has been raised,  
15 and we are trying to formulate a plan which will  
16 meet with your Honor's desire. There will only  
17 be one more American counsel who will conduct  
18 cross-examination.

19 THE PRESIDENT: We are greatly relieved to  
20 hear that you are making an attempt to reduce the  
21 time spent in cross-examination. We hope that it  
22 will be successful.

23 MR. SOMIYA: I am SOMIYA, Shinji, counsel  
24 for the defendant, OKA, Takasumi. I wish to under-  
25 take a few questions to the witness.

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## 1                   CROSS-EXAMINATION (continued)

2                   BY MR. SOMIYA:

3                   Q    In the military training that was given  
4                   American students during the war, was there any  
5                   instruction given in psychological warfare?6                   A    I cannot say. I have been in the United  
7                   States only one month during the period of the war.8                   Q    Then, did you never hear of such things  
9                   through newspapers, et cetera?

10                  A    I did not.

11                  Q    You said, in your testimony yesterday,  
12                  that Japanese students were taught ultra-national-  
13                  ism and the belief that Japan was to dominate  
14                  Greater East Asia, but would you say that this was  
15                  the policy of the Japanese government?16                  THE MONITOR: I would like to add one thing:  
17                  The Japanese was a superior race.18                  THE WITNESS: Will the question be reeated  
19                  as actually stated now?20                  (Whereupon the last question  
21                  was read by the official court reporter.)22                  A    From an examination of the officially pub-  
23                  lished and sanctioned textbooks, I would say that  
24                  that was, in my opion an officially sponsored  
25                  policy.

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1                   Q When and by whom were these textbooks  
2                   of which you speak published?

3                   A They were published by Mombusho during the  
4                   period, particularly 1938, up to the conclusion of  
5                   hostilities.

6                   Q Were these textbooks on military training?

7                   A They were not.

8                   Q In that case, you would not be able to say  
9                   that such ideas given were a part of military train-  
10                  ing?

11                  A I do not say they were a part of military  
12                  training as such.

13                  Q Then, how can you say that the ultra-  
14                  nationalism or the superiority of the Japanese  
15                  race, or the belief in the superiority of the  
16                  Japanese race, should result from military train-  
17                  ing?

18                  A I stated that it resulted from military  
19                  training in subjects that were slanted toward  
20                  militarism.

21                  Q Then, do you mean that such results did  
22                  not come only from military training?

23                  A That is right. They came from a combination  
24                  of military training and subjects taught with a  
25                  militaristic slant.

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1           Q I understand. Then, how many military  
2       instructors were there in the Osaka University  
3       of Commerce and in the Wakayama higher commercial  
4       school where you say you taught?

5           A With regard to the Wakayama Commercial  
6       School, I observed at all times a minimum of two,  
7       often three in that school.

8           Q How about the Osaka University of Commerce?

9           A Of my own knowledge, I saw but one.

10          Q Can you teach all the students with only  
11       one instructor?

12          A I cannot say. There may have been more  
13       instructors whom I did not see.

14          THE PRESIDENT: This is utterly useless  
15       cross-examination.

16          Q Then, what were the contents of the mili-  
17       tary training you say was given?

18          A I believe I answered that question yester-  
19       day.

20          Q The rifles and the light machine guns, of  
21       which you spoke—did they use real rifles and real  
22       light machine guns, or did they use mock rifles  
23       and mock light machine guns?

24          A They were real but old, those that I observed.

25          Q Next, are you aware of the fact that the

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1 words "Greater East Asia Co-Prosperity Sphere" was  
2 employed in Japan from 1943?

3 A It was also employed before that.

4 Q In what books did you see that phrase used?

5 A I have seen that used not only in books,  
6 but in newspapers. I have heard it in speeches;  
7 I have heard it over the radio.

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G 1 (At this point IWAMOTO, Nasahito.  
o 2 replaced OKA, Takashi as interpreter.)  
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b 5  
e 6  
r 7  
g 8  
& 9

Y 1 MR. WARREN: If the Tribunal please, I shall  
e 2 attempt to make my cross-examination short.  
l 3  
d 4  
e 5

n 6 THE PRESIDENT: Major Warren.  
9

Y 1 MR. WARREN: I appear on behalf of the  
e 2 defendants MATSUOKA and DOHIHARA.  
l 3  
d 4

CROSS-EXAMINATION (Continued)

1 BY MR. WARREN:

10 Q Colonel, sir, where did you take your  
11 basic training?

12 A Certain of it at Mare Island; certain of  
13 it at Pearl Harbor.

14 Q Was that during the year 1940 or 1941?

15 A It was during the year 1941.

16 Q 1941. Did you attend officers' training  
17 school or did you receive a direct commission?

18 A I received a direct commission.

19 Q Subsequent to receiving your direct commis-  
20 sion into the Marine Corps, did you attend a Service  
21 school?

22 A I did not.

23 Q You have never received any instruction then  
24 in the Service which would fit you to become an ex-  
25 pert in the particular things that you have testified

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1 about here in this Court, is that correct?

2 A That is correct.

3 Q Now, Colonel, sir, you testified that you  
4 had not called yourself an expert in education. I  
5 now ask you if you are prepared to tell this Tribunal  
6 that you are an expert in the matters about which  
7 you have testified?

8 MR. HAMMACK: I object, sir, on the ground  
9 it is argumentative. The witness has already stated  
10 his qualifications which have been accepted by this  
11 Tribunal.

12 THE PRESIDENT: Counsel must not indulge  
13 in an argument with the witness. He is always at  
14 liberty to comment later.

15 MR. "WARREN: That is correct, your Honor.  
16 I felt, your Honor, that this man knows his qualifi-  
17 cations better than any other person and that, as an  
18 expert, he should be given the opportunity to state  
19 whether he believes he is an expert or not. I have  
20 asked him if he can state that to the Tribunal. Will  
21 the Tribunal permit the question to be asked, or is it  
22 your ruling that it cannot be asked?

23 THE PRESIDENT: We have decided not to  
24 allow that type of cross-examination. The counsel  
25 is at liberty to put questions tending to show that

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1 the witness is not qualified, but not to argue with  
2 him.

3 MR. WARREN: I think I understand, sir. I  
4 will attempt to not ask questions of that type.

5 Q Colonel, sir, you stated that you interro-  
6 gated as a part of your plan to determine the mass  
7 mind of the Japanese people -- that you did interro-  
8 gate prisoners of war. Now, will you tell the  
9 Tribunal whether those prisoners of war were captured  
10 in combat or not?

11 A They were.

12 Q Would you say, in your opinion, they were  
13 trained combat soldiers?

14 A They were being used in combat, and I assume  
15 that they were trained for it.

16 Q Did you ask them whether they were or not?

17 A They were usually asked how long they had  
18 been in training.

19 Q How many of the three hundred to three  
20 hundred and fifty people you interrogated were  
21 prisoners of war?

22 A As a rough estimate, around two hundred.

23 Q How many were students that were living here  
24 at the time that you were teaching in the schools  
25 between 1937 and 1941?

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1           A I cannot say.

2           Q Yesterday, when you were asked to give the  
3           name of any of the students, I believe you stated  
4           that it had been some five years and you could not  
5           recall their names. Was my understanding correct?

6           A That is correct.

7           Q Then I can only assume that at the end of  
8           1941 you had already determined in your mind the  
9           five points that you have now testified about with  
10           reference to the mass mind of the Japanese people,  
11           is that correct?

12           A It was certainly an hypothesis by that  
13           time, confirmed later by study.

14           Q Between 1937 and 1941, you knew that there  
15           were, or was, armed hostility and actual combat be-  
16           tween Japan and China, is that correct?

17           A That is right.

18           Q Would you as an expert on education and  
19           military training, say, that the military training  
20           then being given in Japanese schools exceeded what  
21           was appropriate to the times?

22           A First, I have not stated that I am an  
23           expert on education or military training. Second,  
24           I would state that if one accepts the hypothesis  
25           that such hostilities were justified, that the

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1 training was justified. Unless he accepts that  
2 hypothesis, it was not.

3 Q I am sorry, Colonel, but I can't ask you  
4 about your qualifications. I am asking you as an  
5 expert on education and military training, did you  
6 believe that the military training then being given  
7 in the Japanese schools exceeded what was appropriate  
8 to the times. I am asking your opinion.

91 A My opinion is that it did.

10 Q Upon your return to the United States did  
11 you so report the condition to the War Department  
12 of the United States Government or to any other  
13 agency of the United States Government?

14 A I did not.

15 Q Now, Colonel, sir, what is your military  
16 occupational specialty?

17                   A    In the Marine Corps it is known as SSN 9301,  
18                   Combat Intelligence.

19 THE PRESIDENT: "ould any answer that he  
20 might give to that be of any assistance to us?

21 MR. WARREN: I think so, sir, in this  
22 respect. I next intend to ask him when he ceased  
23 to become a combat intelligence officer and became  
24 our educational officer; and then I intend to ask  
25 him concerning his duties as educational officer

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which, I believe, will be of benefit to the Tribunal.

THE WITNESS: Will the question be repeated?

3 MR. WARREN: I won't ask it then. Should I  
- pursue the question, sir?

5 THE PRESIDENT: I think any answer he would  
6 give wouldn't help much.

7 MR. WARREN: Then I will ask this one last  
8 question.

9 THE PRESIDENT: You might as well ask him  
10 whom he married.

11 MR. WARREN: I felt this way about it, sir.  
12  
13 If a man is a combat intelligence officer and so  
14 trained and his background is such, I thought it  
15 would be of benefit to the Court to show that part  
16 of his job, at least, might have a direct bearing  
17 upon his attitude and his testimony towards the  
18 Tribunal. If the Tribunal believes that it would  
19 be of no assistance, there is no reason for me to  
20 ask those questions.

20 THE PRESIDENT: It wouldn't be of any  
21 assistance to me. We are approaching the time when  
22 we recess, but we are assuming, of course, that the  
23 prosecution at some stage will tender curricula and  
24 textbooks in Japanese schools. Of course, counsel  
25 won't be able to cross-examine a curriculum or a

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1 textbook, but the contents can be debated, and the  
2 Members of the Tribunal without very much expert  
3 testimony will be able to form their own conclusions  
4 as to the effect of those textbooks and curricula,  
5 if they exist. We make no assumption about that.

6 We will recess now for fifteen minutes.

7 (Whereupon, at 1045, a recess  
8 was taken until 1100, after which the pro-  
9 ceedings were resumed as follows, English  
10 to Japanese and Japanese to English inter-  
11 pretation being made by IWAMOTO, Masahito and  
12 SHIMADA, Eric, Akira Itami acting as  
13 Monitor.)

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A 1 THE PRESIDENT: Is there no further cross-  
b 2 examination? Do you desire to re-examine, Mr. Hammack?

r 3 MR. HAMMACK: There will be no further re-  
a 4 direct.

m 5 THE PRESIDENT: The witness will stand down.

r 6 MR. HAMMACK: The next witness will be in in  
e 7 just a moment, may it please the Court. Professor  
8 KAIGO.

9 - - -

10 T O K I O M I K A I G O, called as a witness on  
11 behalf of the prosecution, being first duly  
12 sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. HAMMACK:

15 Q What is your name?

16 A My name is Tokiomi KAIGO.

17 Q What is your profession?

18 A I am assistant professor at the Imperial  
19 University of Tokyo.

20 MR. HAMMACK: For the record, may it please  
21 the Court, I should like to ask the witness to spell  
22 out his name for the benefit of all counsel.

23 THE WITNESS: T-o-k-i-o-m-i K-a-i-g-o.

24 Q How long have you been a professor at the  
25 Imperial University of Tokyo?

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1           A   For ten years.

2           Q   What subjects do you teach?

3           A   I am teaching educational history, and

4           especially contemporary educational history of Japan.

5           Q   Where were you educated, Professor?

6           A   I received my primary education at Mito in

7           Ibaragi Prefecture. I also received my middle school

8           at Mito in the same prefecture. Then I went to the

9           Fifth High School in Kumamoto Prefecture. Then I

10          studied for three years at the Imperial University

11          in Tokyo.

12          Q   Are you familiar with the various subjects

13          that were taught in the Japanese schools and the

14          elementary schools up to and including the university?

15          A   I know to a certain extent, due to my studies

16          which I have conducted during the time I was a student

17          and also through special studies that I am making

18          now at school concerning the education in Japan.

19          Q   Was military training taught in the element-

20          ary schools, Professor?

21          A   It is necessary to consult the history to

22          speak about the military training in Japan. From a

23          historical point of view, I should say that Japanese

24          education had a very strong tint of militarism,

25          especially before eighty years. Japan at that time

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1 was under a militaristic regime, and for eight hundred  
2 years Japanese people was taught along the lines of  
3 militaristic ideas. Therefore, it may well be said  
4 that the Japanese education since the Meiji adminis-  
5 tration was generally militaristic, because the  
6 Japanese educational system inherited the militaristic  
7 tendency from the era prior to the Meiji administra-  
8 tion. Although it is difficult to generalize this  
9 problem since the Meiji era, it can be said that  
10 especially in times of war militaristic education was  
11 conducted in Japan. Since the renovation was made in  
12 the primary school system in Japan in the nineteenth  
13 year of Meiji, military training was introduced into  
14 primary schools, and, if this type of military train-  
15 ing can be called the military training, I should  
16 say that the military training existed since that  
17 time.

18 MONITOR: Correction: Military drills  
19 instead of military training.

20 Q What year, Professor, would you say military  
21 training began in the elementary, secondary, and  
22 normal schools?

23 A I believe it was since the year 1886.

24 Q And at that time, Professor, what did the  
25 military training consist of?

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1           A    Military drill was to be included in physical  
2           exercises.

3           Q    Did this military training continue there-  
4           after, Professor?

5           A    It must be assumed that since 1886 it has  
6           been continued, although there have been certain  
7           variations.

8           Q    Will you state, Professor, when was there a  
9           variation in the military training following the  
10          beginning in 1886?

11          A    I think that military training was reinforced  
12          more or less after the Sino-Japanese War in the  
13          twenty-seventh and twenty-eighth year of Meiji.

14          MR. McMANUS: May I address the Tribunal,  
15          please? I ask the President to instruct the witness  
16          to please testify as to what he knows, not what he  
17          thinks and what must be assumed.

18          THE PRESIDENT: The objection is well taken.  
19          He should not say that it must be assumed that certain  
20          things continued; he must state facts as he knows them.

21          Q    Did this military training continue from  
22          1886 up until World War I?

23          A    Yes, it had been continued.

24          Q    Did the military training continue after  
25          World War I?

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1           A Yes, it had been continued.

2           Q At any period, Professor, after World War I,  
3           was the military training in the schools intensified  
4           or was more time devoted to it than previous thereto?

5           A I believe that it was reinforced in the  
6           year 1925 when a law was promulgated ordering the  
7           active army officers to be attached to schools as  
8           instructors, and in the next year, that is, in 1926,  
9           training schools for young men were established.

10           MR. SMITH: If your Honor please, the  
11           witness is apparently referring to notes in answer  
12           to every question. I object to such a refreshment  
13           of his recollection unless the witness states that  
14           he cannot answer without his notes.

15           THE PRESIDENT: With the Tribunal's permission,  
16           a witness can always, of course, refresh his memory  
17           from his notes, but he must ask permission to do so  
18           and not take the liberty therefor.

19           MR. HAMMACK: At this time, may it please  
20           the Court, I respectfully request that the witness  
21           be permitted, if necessary and when necessary, to  
22           refresh his memory by reference to his notes.

23           THE PRESIDENT: Seeing that he is testify-  
24           ing as to matters of Japanese history, as I take it,  
25           I think he should be allowed that permission, and he

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1 has it.

2 MR. WARREN: If the Tribunal please, may I  
3 inquire if they are the notes made by this witness --  
4 we cannot see what he has -- or whether he has a  
5 statement supplied to him by the prosecution? We  
6 have no objection to his testimony from his own notes,  
7 but we would like to know where they came from.

8 THE PRESIDENT: Ordinarily, of course, a  
9 witness can use only notes he made at the time of the  
10 transaction as to which he testifies, but this is a  
11 special position entirely. This man has made  
12 certain notes of history, and that test should not  
13 apply. The witness may speak from the notes that he  
14 has made, and they will be given whatever probative  
15 value they have. We are not bound by the strict  
16 rules of evidence, I remind counsel again, and we  
17 can get no real guidance from the rules of evidence;  
18 we must use our own sound judgment, and it does  
19 appear to us that if a man professes to be a full  
20 professor of history in the Tokyo University, he  
21 should be able to speak from notes which he has made  
22 for the purpose of his evidence. I do not think  
23 there should be any contest in this Court about  
24 that.

25 CAPTAIN BROOKS: If the Tribunal please, I

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1 am not contesting that point, but I believe the  
2 Tribunal has assumed the point in issue, that the  
3 notes there have been made by this man. If they have  
4 been, I would like to ask the man a question, if he  
5 has prepared the notes himself. If they are his own  
6 notes, I think the Tribunal is proper on that; but,  
7 if they have not been prepared by him, I think the  
8 Court would make a different ruling.

9 THE PRESIDENT: Well, you might ask him that.

10 MR. HAMMACK: I will ask him myself.  
11 Professor, you have been testifying from some notes --  
12 I will withdraw that. Professor, you have used notes  
13 for the purpose of refreshing your recollection. Were  
14 those notes made by yourself?

15 THE WITNESS: As I have to testify concern-  
16 ing events which had happened before my birth, I had  
17 to prepare a memorandum to give testimony here.

18 DR. KIYOSE: Did you prepare your memo in  
19 anticipation of the questions?

20 MR. HAMMACK: To which I object, may it  
21 please the Court. It is incompetent, irrelevant,  
22 and immaterial as to whether he did or not.

23 THE PRESIDENT: It is immaterial whether he  
24 prepared the memorandum for the purpose of this trial  
25 or not. The objection of Dr. KIYOSE is disallowed.

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DIRECT

1           Q Who taught the military subjects in the  
2 schools, Professor?

3           A The instructors of military training were  
4 the officers on active duty attached to the schools.

5           Q At any time did military training in the  
6 elementary and middle and junior colleges become  
7 compulsory, Professor?

8           A Yes, since the fourteenth year of Taisho,  
9 when the law for attaching military officers on  
10 military service to schools was promulgated. Since  
11 then it became compulsory for the students of middle  
12 schools, normal schools, and higher schools, including  
13 Tokyo schools and universities.

14           Q In English, that year would be about 1925,  
15 was it, Professor?

16           A Yes. That is correct.

17           Q Was military training at this time compulsory  
18 in the university, Professor?

19           A It would be necessary, beforehand, to define  
20 the word "military training." It can be subdivided  
21 into two items: One is actual military training,  
22 drill or technical training; and the other is  
23 lectures on military subjects. And in 1925 lectures  
24 on military subjects were given at the university,  
25 although the students were not called upon to take

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1 up bayonets and do actual training.

2 MONITOR: Rifles instead of bayonets.

3 THE PRESIDENT: At the request of one of  
4 my colleagues, I desire that the witness in all cases  
5 give the date anno Domini, and not in such and such  
6 an era. Otherwise it is only a partial translation,  
7 and the date is missed by us unless we have a table  
8 before us. That is our desire. We hear of the Meiji,  
9 and things like that; and the Sino-Japanese War means  
10 a lot to the Japanese and, perhaps, to some Americans  
11 and others, but to all of us it is not clear. The  
12 Sino-Japanese War was used, and I took it to be some-  
13 thing about 1894, but I might be wrong about that.

14 CAPTAIN KLEIMAN: If it please the Tribunal,  
15 at this time, on behalf of the defendant HIRANUMA, I  
16 object to questions that will be asked concerning  
17 dates prior to 1928. The count in the Indictment,  
18 the Indictment itself, speaks of a conspiracy and  
19 various other crimes that had been committed between  
20 the year 1923 and the year 1945, and my objection  
21 is based on the ground that any testimony given with  
22 respect to years prior to the year 1928 is irrelevant  
23 and immaterial to the issues that we are trying in  
24 this case.

25 THE PRESIDENT: We would have no justification

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1 for concluding that no events before 1928 could be  
2 testified to for purposes of an alleged conspiracy  
3 between 1928 and 1945. The objection is overruled.

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1       Q   Did military training, Professor, in the uni-  
2 versity at any time become compulsory?

3       A   As I stated before, it became compulsory for  
4 students to attend classes where lectures on military  
5 subjects were given since the year 1925.

6       Q   In addition to lectures on military subjects  
7 given at any time, did actual military training become  
8 compulsory in the universities?

9       A   It was decided in the year 1939 to introduce  
10 rifle practice--

11       THE MONITOR:   Correction:  To introduce mili-  
12 tary drill with rifles.

13       A   (Continuing)  And it was put into practice  
14 since September of the same year.  But at that time  
15 the students were told to conduct rifle practice  
16 only on the occasion of field maneuvers, and on  
17 other occasions they were supposed to attend lec-  
18 tures only.

19       THE MONITOR:  Correction:  Field drills in-  
20 stead of field maneuvers.

21       MR. WARREN:  I did not get that correction, sir.

22       THE PRESIDENT:  Will the reporter read it?

23                   (Whereupon, the Monitor's statement  
24 was read by the official court reporter.)

25       Q   Was there at any time, Professor, a reorganiza-

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DIRECT

1 tition of the school system resulting in increased  
2 importance being placed upon military training and  
3 the teaching of military subjects?

4 A In November, 1941 a new curriculum for  
5 military training was made, and since then rifle  
6 drills was to be conducted even in universities.

7 Q Is it not a fact, Professor, that in 1937  
8 there was the beginning of a reorganization of the  
9 school system, and which reorganization attached  
10 more importance to military subjects and training?

11 CAPTAIN KLEIMAN: Objection is made, your  
12 Honor, on the ground that that is a leading question.

13 THE PRESIDENT: The objection is upheld.

14 Q Was there previous to 1921, Professor --  
15 strike. Prior to 1941, Professor, was there any  
16 reorganization of the school system in Japan, which  
17 reorganization attached more importance to military  
18 training and teaching of military subjects?

19 MR. YAMAOKA: Same objection, your Honor.

20 THE PRESIDENT: I think that question is in  
21 order. It is very difficult to put it in any other  
22 way. Objection overruled.

23 A Prior to the year 1941, a wholesale renovation  
24 of the educational system in Japan was conducted; namely,  
25 in the year 1971 -- 1937, Educational Council wasestab-

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DIRECT

1 lished, whose mission was to study, investigate as a  
2 whole the educational system and its contents and its  
3 methods.

4 Q As a result of this study, Professor, did mili-  
5 tary training and lectures become more important in the  
6 Japanese school system?

7 CAPTAIN BROOKS: If the Tribunal please, I ob-  
8 ject to that question. He may ask what results may have  
9 happened during this period, but not put the words in the  
10 witness' mouth. It is a leading question, highly improper,  
11 I think.

12 THE PRESIDENT: Will you read the question,  
13 please?

14 (Whereupon, the last question was read  
15 by the official court reporter.)

16 THE PRESIDENT: That question is in order. I  
17 will allow it.

18 A No decision as to intensifying military training  
19 was made during the Educational Council. However, in  
20 the year 1937, as the China Incident broke out, it was  
21 necessary to intensify military training of the nation  
22 as a whole.

23 THE MONITOR: Correction. Instead of in  
24 the year 1937, years following or beginning 1937.

25 Q During the renovation of the school system in  
1937, Professor, were any changes made in other subjects

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1 as distinguished from military subjects and training?

2 A The subjects discussed during the Educational  
3 Council in 1937 were the renovation of the educational  
4 system in Japan so that the educational system of  
5 Japan may serve the country.

6 MR. HAMMACK: I ask that the last part of the  
7 witness' answer be stricken as not responsive to the  
8 question; that is, that it may serve the country. It is  
9 not responsive to the question.

10 THE PRESIDENT: Well, that is the answer you  
11 got, and it may remain in the record.

12 Q What subjects were changed in 1937?

13 THE PRESIDENT: That is a leading question.  
14 It suggests that changes were made. You had better  
15 stick to the strict method of putting these questions  
16 in examination in chief. You will have a lot of  
17 trouble if you do not, Mr. Hammack. You will have  
18 objections every few minutes. It is a very simple  
19 matter.

20 MR. HAMMACK: I will, may it please the Court,  
21 although frankly I find it slightly difficult. But I  
22 will do my utmost to make them absolutely direct  
23 questions.

24 Q Were the textbooks relating to any subjects  
25 changed following the renovation of the school system

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1 in 1937?

2 A It was after 1941 that the real changes of  
3 textbooks were made. The Educational Council which  
4 met in 1937 had studied for long years various programs  
5 concerning the change of the educational system.

6 THE MONITOR: Correction: The Educational  
7 Council continued its deliberations for several years  
8 after '37.

9 A (Continuing) After 1941, changes were made in  
10 such subjects as ethics, history, geography, and the  
11 national language.

12 Q When were these changes made?

13 A It was sometime after 1941.

14 Q Had there been no changes made prior to 1941?

15 A Since the summer of 1940 new textbooks were  
16 used in primary schools.

17 THE MONITOR: Correction: Since the summer  
18 of 1940, a new educational policy was put into practice  
19 in the way of selecting teaching material, following  
20 the decision on the new policy adopted in 1940.

21 A (Continuing) And since then new textbooks  
22 were used in primary schools.

23 Q What textbooks were changed in early 1940?

24 A Textbooks were not changed yet in the year  
25 1940.

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1           Q   Was there any change in the teachings of the  
2   subjects that were being taught in 1940?

3           A   At that time the changes had not been made  
4   yet as to the subjects, either. However, the general  
5   policy for renovation of it was already made clear in  
6   the summer of 1940. This renovation can be traced up  
7   to the year 1937, when the Educational Council met to  
8   deliberate those subjects.

9                   MONITOR: Correction: December, '37, instead  
10   of just '37.

11           Q   What was the effect of the teachings beginning  
12   with 1937, Professor?

13           A   As the policy of basing the education on the  
14   cause of serving the country was decided by the Educa-  
15   tional Council, the education in Japan after 1937 was  
16   based upon the education to promote patriotic feeling  
17   of the nation.

18                   MR. HAMMACK: May I ask, if it please the  
19   Court, that that last sentence be read? I could not  
20   hear it.

21                   (Whereupon, the last sentence of the  
22   answer was read by the official court reporter.)

23           Q   Would you say, Professor, that the patriotic  
24   feeling included therein teachings to inculcate an  
25   ultra-nationalistic and militaristic spirit?

KATGO

## DIRECT

1 MR. YAMAOKA: Your Honor, please, we object  
2 to that as being leading.

3 THE PRESIDENT: Well, I cannot say it is a  
4 leading question. You see, the subject matter has to  
5 be considered.

6 Counsel asks, did a certain result follow,  
7 not did not a certain result follow. There is a big  
8 difference between the two forms of question.

9 It would be less objectionable if you said,  
10 "what if any result followed from that teaching?"

11 MR. HAMMACK: Yes, your Honor.

12 THE PRESIDENT: That is what you should say.

12 MR. HAMMACK: Strike the question.

14 THE PRESIDENT: I hope you will avoid these  
15 questions that have the appearance of being leading  
16 questions even if they are not so.

18 MR. HAMMACK: Yes, your Honor.

18 THE PRESIDENT: We will adjourn now until  
19 thirty minutes after one o'clock.

20 (Whereupon, at 1200, a recess was  
21 taken.)

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## AFTERNOON SESSION

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3                   The Tribunal met, pursuant to adjournment,  
4 at 1330.

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(English to Japanese and Japanese  
to English interpretation was made by OKA,  
Takashi and TSUCHIYA, Jun, Hidekazu  
Hayashi acting as Monitor.)

MARSHAL OF THE COURT: The International  
Military Tribunal for the Far East is now resumed.

THE PRESIDENT: Any cross-examination?

MR. HAMMACK: I have not finished the  
direct examination yet, may it please your Honor.

BY MR. HAMMACK:

Q Professor, was national culture taught in  
the schools of Japan?

A Yes.

Q In what grade schools was this subject taught?

A It was taught from the first year of ele-  
mentary school.

Q On the subject of national culture, what  
was taught in these schools, Professor?

A There was no national culture taught as a  
subject in the narrow sense, but in a wider sense  
in each course the supremacy of the Japanese state

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1 was brought out.

2 Q What was the result of the teaching of  
3 national culture on the students, Professor?

4 A The students were taught that Japan was ~~strong~~  
5 strong, and that Japan must show forth her special  
6 characteristics to the world.

7 Q Would you say, Professor, based upon your  
8 experience as a student in Japanese schools and  
9 as a professor teaching the subject of the his-  
10 tory of education, that the effect of this teach-  
11 ing on the students was to create in them the opin-  
12 ion that the Japanese were a superior race?

13 MR. SMITH: Objection, if the Court please.

14 It calls for a conclusion.

15 THE PRESIDENT: The objection is over-  
16 ruled. I thought it might be on another ground.

17 A As far as I can judge, it is my opinion  
18 that this kind of education, namely, that Japan was  
19 a great nation, was given to the students.

20 Q Was geography taught in these various grade  
21 schools, Professor?

22 A Geography as a subject was taught from the  
23 upper grades of elementary school, but geography  
24 included in other courses was taught from the first  
25 grade.

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1           Q  And history?

2           A  History also.

3           Q  What, in your opinion, Professor, based upon  
4           your experience as a student and later as a professor  
5           teaching the subject of the history of Japanese edu-  
6           cation, was the effect upon the students of the  
7           teaching of these three subjects: history, geogra-  
8           phy, and morals?

9           MR. WARREN:  If the Tribunal please, it is  
10          not our understanding that this witness has been  
11          qualified as an expert to whom questions of this  
12          type might be propounded.

13          THE PRESIDENT:  As a teacher, and more  
14          particularly as an assistant professor of history  
15          in the principal university of Japan, he has laid  
16          a basis for his qualifications to form conclusions  
17          as to the effect upon the minds of Japanese youths,  
18          officers and teachers.  The objection is overruled.

19          A  I shall have to speak at some length on  
20          exactly what effect this kind of education had on  
21          them.  In primary and secondary schools education  
22          given in morals, history, and geography did have  
23          great widespread effects, and it is my belief that  
24          students believed implicitly whatever was taught  
25          to them by their teachers.  But, beginning from the

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1 higher grades of secondary schools and students of  
2 high schools, there were quite a number of students  
3 who began to have a critical attitude toward this  
4 kind of education. So, among these higher grade  
5 students, I cannot say that the same thing -- the  
6 same thing cannot be said of students of higher  
7 schools.

8 Q What was the teachings in the lower schools  
9 which you found the students in the higher grade  
10 schools tended to criticise?

11 A The education which students received in  
12 middle schools and in elementary schools, and which  
13 they tended to criticise when they advanced to  
14 higher schools, is the same as the education of  
15 which I was speaking a few minutes ago.

16 Q What was the education?

17 A Are you asking me a question about the  
18 education they received in elementary schools or  
19 the education they received in the higher schools?

20 Q I asked you, Professor, from your experience  
21 as a teacher, and as a student, what in your opinion  
22 was the effect of the teachings given to the stu-  
23 dents of the schools of Japan? Will you please  
24 answer that question?

25 A I understand your question, but I wanted to

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1 know whether you meant the education they received  
2 in elementary school, or the education they received  
3 in higher school, or the education they received by  
4 which they became critical of this education, the  
5 education they received in ultra-nationalism, or  
6 what specifically it is that you want to know;  
7 otherwise, I cannot answer.

8 Q I am asking you, Professor, what in your  
9 opinion was the effect on the minds of the students  
10 of all schools of all grades, what was the net ef-  
11 fect of the teachings they received from the pri-  
12 mary and elementary schools until they entered the  
13 university.

14 A As I have already replied, students in  
15 elementary and in secondary schools were greatly  
16 affected by the type of education which they did  
17 receive.

18 Q I will ask you this question, Professor:  
19 Would you say that from your experience as a teach-  
20 er and a student that the final effect of all the  
21 teachings, both military, ~~and~~ subjects of a military  
22 nature, geography, national culture, and morals was  
23 to inculcate in the students of Japan a militaristic,  
24 ultra-nationalistic spirit?

25 MR. LOGAN: May it please the Tribunal,

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1 this witness has been asked his own opinion with re-  
2 spect to this same question and has stated it, and  
3 now counsel is endeavoring to put the answer he  
4 wants into the witness's mouth, and it is highly  
5 leading and prejudicial.

6 MR. HAMMACK: If it please the Court, I  
7 respectfully submit that up to date the witness has  
8 not answered any questions, and I am endeavoring to  
9 expedite by leading him slightly.

10 THE PRESIDENT: You are not entitled to  
11 lead him, even slightly.

12 Do you want to have him declared hostile?

13 MR. HAMMACK: At this time, may it please  
14 your Honor, I ask to have the witness declared hos-  
15 tile, and I would like the privilege of impeaching  
16 my own witness on the grounds that we were taken  
17 by surprise.

18 THE PRESIDENT: That is a very serious step.  
19 I was trying to be facetious when I suggested it.

20 MR. HAMMACK: I will make a motion at this  
21 time, may it please your Honor --

22 THE PRESIDENT: You must have certain  
23 material before you can get an order to declare  
24 a witness hostile. I do not know whether you can  
25 get it.

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1                   MR. HAMMACK: I will withdraw the motion  
2 made at this time, may it please your Honor.

3                   THE PRESIDENT: Can you suggest that he  
4 made statements inconsistent with his present testi-  
5 mony? You have his proof before you, I take it.

6                   MR. HAMMACK: Yes, your Honor, I do, but I  
7 hesitate to ask the privilege of impeaching my own  
8 witness until I am absolutely forced to do so. I  
9 will say frankly to your Honor that the answers so  
10 far have been totally unresponsive to the questions  
11 and wholly in conflict with the answers given to me  
12 heretofore. With the Court's indulgence, I will en-  
13 deavor to do the best I can here for the next few  
14 moments in an effort to speed the proceedings up.

15                  Q Now, Professor, from your experience as a  
16 teacher as well as a student in the schools of Japan,  
17 what in your opinion was the effect of the teachings  
18 given to students in all grade schools up to the  
19 university?

20                  A Again, I shall say my own opinion. The  
21 education I received as a student, and later the ex-  
22 perience I had as a teacher, leads me to say that the  
23 effect of such education upon Japan as a nation was  
24 as follows: The education given to the effect that  
25 Japan was -- the country of Japan was supreme was

1 very effective, both in elementary schools, in  
2 secondary schools, and in colleges and universities;  
3 and this way of thinking, that of considering Japan  
4 as supreme, gradually permeated the entire nation as  
5 the war became more -- as the war progressed. I have  
6 been teaching at a university, and I believe that  
7 among students and teachers there are two ways of  
8 thinking: One; the idea of regarding Japan's  
9 policies since the Manchurian Incident as right and  
10 proper, and the idea of Japan's -- of recognizing  
11 Japan's supremacy as right and proper and acting  
12 in accordance with this. Two: there was another  
13 way of thinking which regarded Japan's policy since  
14 the Manchurian Incident with a critical eye, and  
15 among people of this second class this type of edu-  
16 cation did not have such far-reaching effects. I,  
17 myself, in considering the accomplishment of the  
18 Greater East Asia idea, believed that I could help  
19 to do so by continuing my own studies in my own  
field.

20 Q What happened, Professor, to teachers who  
21 openly opposed the policy which you mentioned first,  
22 the policy of Japan beginning with and following the  
23 Manchurian Incident?

24 MR. WARREN: If the Court please --  
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1                   THE PRESIDENT: What happened to his brother  
2 professors is not a matter of expert testimony, is it?  
3 It is open to you to get other evidence out of him.

4                   MR. HAMMACK: That is all, your Honor, no  
5 further direct examination.

6                   (Whereupon, MOTONO, Seiichi, re-  
7 placed TSUCHIYA, Jun as interpreter.)

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1                   MR. SUGAWARA: I am SUGAWARA. I am very  
2 happy to have heard the witness' clear statement  
3 on what happened in educational circles in Japan.  
4 In order to make the witness' statements still more  
5 exact, I would like to ask a few more questions.

6                   CROSS-EXAMINATION (Continued)

7                   BY MR. SUGAWARA:

8                   Q The witness has stated that his opinion  
9 is based on his own experience and on his studies  
10 as a teacher. May I ask the witness' age?

11                  A I am forty-five.

12                  Q Previously, the question of your notes  
13 came up. How many times have you met with the pros-  
14 ecution?

15                  THE PRESIDENT: That question will not help  
16 defense in the way that counsel desires -- will not  
17 help them in the least. It is a waste of time to put  
18 such questions. I disallow it.

19                  Q The witness has talked about the feudal-  
20 istic and militaristic training given during the  
21 eight hundred years of the foudal age in Japan but  
22 this is relatively speaking, and during this period  
23 in the Imperial Family poems and literature were  
24 greatly encouraged, while among the common people  
25 education was given in so-called "temple schools,"

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1 being a very democratic form of education. Also in  
2 businesses so-called "teaching" by the method of  
3 apprenticeship was practiced, and education was given  
4 in this way.

5 MR. HAMMACK: May it please the Court, we  
6 object on the ground that the counsel is not asking a  
7 question. He is making a statement.

8 THE PRESIDENT: The learned counsel must  
9 understand, although he is entitled to ask questions,  
10 he is not entitled to make an address.

11 Q I am questioning this witness on the basis  
12 that it is necessary for the purpose of this case to  
13 bring out the general purposes of education in this  
14 country, and my purpose in conducting this cross-  
15 examination is to correct the impression given by the  
16 witness' former statement that militaristic training  
17 was given during eight hundred years -- so that only  
18 militaristic training was given during eight hundred  
19 years -- and that there was no ordinary peaceable  
20 education given.

21 THE PRESIDENT: Well, under the first part  
22 of the question, it is not the function of the witness  
23 to state what are the purposes of the case. That is  
24 beyond his province. As to the second part of the  
25 question, I would like you to split that up into a

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1 number of questions.

2 Q I ask the witness: you have given the  
3 impression in your recent statement that only mili-  
4 taristic education was given during these eight  
5 hundred years but, as in my opinion, this was not  
6 the case, what do you think about it?

7 MR. HAMMACK: I object to the form of the  
8 question, may it please your Honor.

9 THE PRESIDENT: We must make some allowances  
10 for the fact that these Japanese counsel are not ac-  
11 customed to cross-examining. It is obvious from this  
12 counsel's attempts that they have had no experience  
13 and I am going to persevere a little longer with him  
14 unless my colleagues differ with me. I do ask the  
15 counsel who is cross-examining now to put short  
16 questions.

17 Q Please give a simple answer to the question  
18 I just put. I will rephrase my question.

19 Was education confined to the samurai class-  
20 es or did all classes enjoy the benefits of education?

21 A The question put to me by the prosecutor  
22 was the origin of Japanese military education. I  
23 answered that it did not begin in the Meiji Era but  
24 could be traced to about eight hundred years. I  
25 was not asked and did not reply as to what was Japanese

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1 education as a whole.

2 Q What do you think are the fundamental  
3 purposes of education in our country?

4 A I do not think that it was the same in every  
5 age. Of what time are you thinking?

6 Q After the Meiji period. That is after 1867.

7 A I understand that you are asking what was  
8 the general policy of the education after Meiji and I  
9 shall answer on those lines. In the Meiji Era Japan  
10 was, when it was compared with other countries, ex-  
11 tremely backward. In the nineteenth century, then,  
12 Japan endeavoured to reach the same degree of culture  
13 and progress as the other countries. So in the realm  
14 of education, all efforts were made to intensify and  
15 accelerate Japan's progress. This was particularly  
16 evident in the years centering around Meiji, 18 and 19,  
17 which is 1885-6; and the motto then was, "Enrich the  
18 country and strengthen its army."

19 Q I have heard that the military training was  
20 inaugurated in 1886 when Mr. Yurci MORI was Minister  
21 of Education.

22 A That is so.

23 Q This was an era when Japan was still very  
24 backward and very weak and Chinese battleships were  
25 still stationed, harboured in Yokohama. This was not

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1       done with an aggressive purpose and Viscount MORI who  
2       inaugurated this policy was assassinated later for being  
3       a liberal. It is clear that the word "Kunren" or mili-  
4       tary training as used in our country at that time had  
5       no aggressive meaning whatsoever. What do you think  
6       of this?

7       A I have studied the -- what Mr. MORI -- what  
8       Education Minister MORI has done, but I do not think  
9       that it is the place to speak of it now. As to your  
10       question concerning military drill, I do not think  
11       that it can be said that it necessarily was meant as  
12       an aggressive education. It was thought at that time  
13       that perhaps Japan would have to come into a war and,  
14       in that case, she must certainly have strong armed  
15       forces. I believe that this was also included in the  
16       Minister's policy.

17       Q The facts show that this military training  
18       had no aggressive purpose as such but merely showed  
19       the great fear in which Japan held the military strength  
20       of China at the time.

21       THE PRESIDENT: This is not interrogation.  
22       This is a conversation between the two of them.

23       Q You said that military education, military  
24       training, formal military training was given in Japanese  
25       schools from 1925. That was when KATO, Komei was

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1 Premier, OKADA, Ryōhei was Minister of Education, and  
2 UGAKI, Issai was Minister of War, is that correct?

3 A I do not remember how the Cabinet was formed  
4 at that time, and I could not answer you.

5 Q Well, then, I believe that the purpose of  
6 instituting military training at that time was far from  
7 being aggressive, was for disarmament,--in other words,  
8 to reduce the years of training in the army from two  
9 years to one and one-half years and, in turn, to do  
10 that half-year of training in school.

11 A I have two opinions on this fact. After  
12 the Great War, on one side there was a liberal trend  
13 of thought which even became socialistic. As against  
14 this way of thinking, there were those who supported  
15 nationalistic views and criticized this liberal, social-  
16 istic way of thinking. They wanted to enhance the  
17 Japanese national spirit, and this was the basis of the  
18 military training.

19 You ask why officers were attached to the  
20 schools in 1925 as instructors, why in 1926 the training  
21 institutes were established, youth training institutes.  
22 I believe that this was as a result of a desire for  
23 disarmament.

24 Q Do you not believe that in this post-war  
25 period when the prosperity of World War I days was

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1 ended and the great earthquake had visited Tokyo and the  
2 morale of youth in Japan was very low, there was felt  
3 an urgent need for elevating that morale and the insti-  
4 tution of military training was in line with this  
5 general atmosphere of the times?

6 A You are asking me why military training was  
7 intensified in 1925 and 1926. This is a question of  
8 opinion. Various opinions have been given in answer to  
9 this question, and I do not know if I have to give my  
10 opinion from this witness box.

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1                   THE PRESIDENT: The witness must give his  
2                   opinion. He is intended as an expert.

3                   THE WITNESS: I shall give my opinion. I  
4                   am asked to explain why military training was inten-  
5                   sified in 1925 and in 1926. One of the near causes  
6                   was certainly the disarmament. However, soon after,  
7                   the Manchurian Incident occurred, and it can be  
8                   said that the military training of 1925 and 1926,  
9                   when you look at its result, must be said to have  
10                   had a great influence on Japanese action. After  
11                   World War I there was a great social unrest in  
12                   Japan. It can be said that frivolousness prevailed  
13                   in Japan and we can consider that the putting into  
14                   execution of military training in the years '25  
15                   and '26 did a great deal to check this tendency.

16                   Q    Lastly, I would like to question you on  
17                   the Educational Investigation Committee. I believe  
18                   that the purpose of the Educational Investigation  
19                   Committee was to establish the independence of  
20                   education, that is, to separate education from  
21                   politics so that it would not be affected by  
22                   political changes and to maintain all the good  
23                   that was in Japanese education. What do you think  
24                   of that?

25                   A    The Educational Council was created upon

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1      Imperial command. It is of the same sort as the  
2      Provisional Educational Council, which was also  
3      created.

4      INTERPRETER: Correction. It was created  
5      on the same lines as the Provisional Educational  
6      Council, which was founded after the First World War,  
7      so that it could pursue its duties without being  
8      disturbed by the change of cabinet.

9      Q      Will you state the difference between  
10     "ultra-nationalism" and the phrase "in accordance  
11     with the Imperial way"?

12     A      I consider that it is difficult to make  
13     the difference clear. According to the Imperial  
14     way was meant, at that time, as enhancing Japan's  
15     special qualities and contributing to the culture  
16     of the world. But, during the war the enhancing  
17     of Japanese qualities was particularly stressed,  
18     and this came to be used as "super-nationalism."

19     Q      Can you clearly state that the purpose of  
20     the establishing of the Educational Research Society  
21     was not ultra-nationalistic?

22     A      If we compare it to the reforms which have  
23     been made in Japanese education up to now, we can  
24     say that the Education Council was meant to find  
25     how the special qualities of Japan could be enhanced.

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1       However, this was extremely strengthened after '37,  
2       and especially after 1941. Let me say one word  
3       more. The strengthening of these qualities during  
4       the war can be termed as an ultra-nationalist  
5       policy. However, I can't -- I think it is very  
6       difficult to determine by words the difference  
7       whether a thing belongs to nationalism or ultra-  
8       nationalism.

9               THE PRESIDENT: Your second witness is  
10       rather devastating, Mr. Hammack. We will recess  
11       now until three o'clock.

12               (Whereupon, at 1445, a recess  
13       was taken until 1500, after which the  
14       proceedings were resumed as follows:)

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1 MARSHAL OF THE COURT: The Tribunal is now  
2 resumed.

3 THE PRESIDENT: Yes, Mr. Yamaoka?

4 MR. YAMAOKA: May it please the Tribunal,  
5 there will be no further cross-examination by Amer-  
6 ican defense counsel.

7 MR. HAMMACK: No redirect, if it please the  
8 Court.

9 (Whereupon the witness was excused.)

10 MR. JUSTICE MANSFIELD: If the Tribunal  
11 please, the Court will be aware of the vast amount of  
12 time that will be taken up by direct examination,  
13 question and answer, of both American and Japanese  
14 witnesses, and the translation into Japanese after  
15 the witness is called.

16 In order to contribute as far as the prose-  
17 cution possibly can to an expeditious hearing, the  
18 prosecution proposes to produce the direct evidence  
19 in the form of an affidavit, and to produce the wit-  
20 ness for cross-examination. The affidavit has been  
21 translated into Japanese and has been served on the  
22 defense at least twenty-four hours ago. That has  
23 the advantage of informing the defense at least  
24 twenty-four hours before the witness is called of  
25 the evidence which he will give, and will enable

1 the defense counsel to confer with their clients on  
2 the evidence, and to get their clients' instructions.

3 THE PRESIDENT: Did the last witness make an  
4 affidavit?

5 MR. JUSTICE MANSFIELD: No, the last witness  
6 has not made an affidavit.

7 The Tribunal will realize that this particu-  
8 lar phase which is now being presented, if it only  
9 progresses at the rate at which it has progressed  
10 so far, will take some considerable time as there  
11 are approximately thirty more witnesses to be called  
12 on this phase alone.

13 In conclusion, I refer the Tribunal to  
14 Article 13c (3) enabling an affidavit to be ten-  
15 dered in evidence, or to be admitted in evidence.  
16 And I submit if the witness is produced for cross-  
17 examination it will have the effect of expediting  
18 the hearing, and apart from being any prejudice  
19 to the defense will be an advantage to them.

20 MR. WARREN: If the Tribunal please, the  
21 defense wishes to note its most strenuous objec-  
22 tions to any such procedure.

23 We realize that there are provisions  
24 within the sound discretion of this Tribunal to  
25 permit -- that is, to be exercised in the sound

1 discretion of this Tribunal to permit affidavits.  
2 But there are now before me three affidavits,  
3 each of which starts with the same words, and each  
4 of which is a great deal similar in character, and  
5 we do not believe that a witness produced in court  
6 would testify in accordance with the matters con-  
7 tained therein.

8 Further, we should like to say to the  
9 Court that any opportunity that we might have for  
10 impeachment upon the statements previously taken  
11 would be removed, and detrimental to the accused.

12 We have believed, and we think rightfully  
13 so, that when the Supreme Allied Commander, in  
14 drawing his document outlining the powers and  
15 duties of this Tribunal, inserted the clause re-  
16 ferred to, he had in mind the secondary rule of  
17 evidence; that is, if you cannot produce the  
18 witness, then in lieu thereof, the affidavit.

19 But certainly, sir, I know of no founda-  
20 tion in law, I know of no precedent ever having  
21 been set which would require an accused to cross-  
22 examine a living witness upon an affidavit which  
23 he had previously made under the supervision, un-  
24 der the entire control, of the prosecution, without  
25 a single member of the defense being present.

1 And we do urge that no such procedure be permitted  
2 in this tribunal of justice, sir.

3 MR. JUSTICE MANSFIELD: If the Tribunal  
4 please, there are three objections which have been  
5 raised by the defense. The first is that they do  
6 not believe that any witness would testify as set  
7 out in the affidavits which they have received.  
8 The belief of the defense, I submit, is quite irre-  
9 levant.

10 The second objection raised was that there  
11 would be no opportunity for impeachment. I submit  
12 that all matters could be covered by cross-examination,  
13 particularly when they have had twenty-four hours to  
14 enable them to prepare their cross-examination on  
15 the affidavit.

16 THE PRESIDENT: They are all in Tokyo, are  
17 they?

18 MR. JUSTICE MANSFIELD: Pardon?

19 THE PRESIDENT: They are all in Tokyo, are  
20 they, Mr. Justice Mansfield?

21 MR. JUSTICE MANSFIELD: The witnesses which  
22 we intend to call? Yes, they are in Tokyo.

23 I refer to the third point raised, namely,  
24 that there is no precedent for this particular pro-  
25 cedure. Realizing that this Tribunal is in no way

1 bound to follow that set by the Nuernberg trial,  
2 I do refer for what it is worth to decisions of the  
3 Nuernberg Tribunal on similar points.

4 The first decision of that Court was on the  
5 28th of November, 1945, by the President. This is  
6 the ruling:

7 "The Tribunal have considered the objection  
8 which has been raised, and in view of the powers  
9 which the Tribunal has under Article 10 of the  
10 Charter, which provides that the Tribunal shall not  
11 be bound by technical rules of evidence, but shall  
12 adopt and apply to the greatest possible extent ex-  
13 pedientious and non-technical procedure and shall admit  
14 any evidence which it deems to have probative value,"  
15 which I might say are the identical words in the  
16 Charter governing this Tribunal.

17 The Court proceeds:

18 "In view of those provisions, the Tribunal  
19 holds that affidavits can be presented, and that in  
20 the present case it is a proper course. The question  
21 of the probative value of an affidavit as compared  
22 with a witness who has been cross-examined would of  
23 course be considered by the Tribunal; and if at a  
24 later stage the Tribunal thinks the presence of a  
25 witness is of extreme importance, the matter can

1           be reconsidered. And they would add to this: That  
2           if the defense wish to put interrogatories to the  
3           witness (Messersmith) they will be at liberty to do  
4           so."

5           On the second of January, 1945, the Tribunal  
6           ruled as follows:

7           "The Tribunal is of the opinion that the  
8           affidavit (Hoellriegl), which is upon a relevant  
9           point, upon a material point, is evidence which  
10           ought to be admitted under Article 10 of the  
11           Charter, but they will consider any motion which  
12           counsel for Kaltenbrunner may think fit to make for  
13           cross-examination of the witness who made the affi-  
14           davit if he is available and could be called."

15           THE PRESIDENT: All these deponents are  
16           already in Tokyo, and there is no difference between  
17           their case and that of those two witnesses we have  
18           already heard, is there, except that they have made  
19           affidavits and the other two have not?

20           MR. JUSTICE MANSFIELD: That is quite so,  
21           your Honor. The object of the prosecution -- in view  
22           of the fact that there are another thirty witnesses  
23           to call on this phase of the case alone, it is anti-  
24           cipated that if the present method is followed, it  
25           will take between twenty and thirty days to finish

1 this phase. As there are approximately, I think,  
2 twelve phases, it will take approximately three hun-  
3 dred and sixty days to finish the prosecution's case  
4 at that rate.

5 THE PRESIDENT: But I take it you intend to  
6 read the affidavit in court?

7 MR. JUSTICE MANSFIELD: That is correct.

8 THE PRESIDENT: And not invite the Court  
9 to read the affidavit in chambers?

10 MR. JUSTICE MANSFIELD: No, read the affi-  
11 davit in court and have simultaneous translation.

12 THE PRESIDENT: Would that take less time  
13 than a skillful examination in chief of the witness?

14 MR. JUSTICE MANSFIELD: We anticipate it  
15 would take at least not more than one-third of the  
16 time that would be involved by direct examination.

17 THE PRESIDENT: The cross-examination will  
18 be no shorter. I should think it would be longer  
19 because of the opportunity they have had to study  
20 what is said in the affidavit.

21 MR. JUSTICE MANSFIELD: Well, I would submit  
22 very respectfully to the Court that it would probably  
23 be shorter in that all the irrelevant questions  
24 which might be asked would be cut out.

25 THE PRESIDENT: I would like to think that

1                   irrelevant questions would be cut out on reflection.

2                   MR. JUSTICE MANSFIELD: Irrelevant, I said,  
3                   your Honor.

4                   THE PRESIDENT: Irrelevant.

5                   MR. JUSTICE MANSFIELD: That all irrelevant  
6                   questions would be cut out on reflection, yes.

7                   We would point out, if the Tribunal please,  
8                   that at Nuernberg the witnesses were available,  
9                   actually in Nuernberg, and when an affidavit was --  
10                  the affidavit of Von Schroeder was tendered, the  
11                  Tribunal directed that the affidavit be received  
12                  and Von Schroeder be presented immediately for  
13                  cross-examination. That is on the 23rd of January,  
14                  1946.

15                  CAPTAIN BROOKS: If the Tribunal please, I  
16                  would like for it also to take into consideration an  
17                  objection on the basis of Paragraph 1395 of "Wigmore  
18                  on Evidence," discussing confrontation; that it would  
19                  be also proper to allow cross-examination and also  
20                  enable observation of the elusive and incommunicable  
21                  evidence of a witness' deportment while testifying,  
22                  and a certain subjective moral effect that is produced  
23                  upon the witness being face to face with the accused.

24                  I would like to point out almost all con-  
25                  stitutions have given a permanent sanction to the

1 principle of confrontation by clauses requiring that  
2 in criminal cases the accused be confronted with  
3 the witnesses against him, or brought face to face  
4 with them when possible. And only affidavits have  
5 been used in those places where it was absolutely  
6 not possible, and then it was an exception to that  
7 rule.

8 THE PRESIDENT: Yes, Mr. Smith?

9 MR. SMITH: Your Honor, I would like to make  
10 the additional objection that the whole of Article 13  
11 of the Charter is invalid and a nullity. The conten-  
12 tion is that General Mac Arthur has no authority  
13 under the Constitution and Laws of the United States  
14 to make any laws.

15 THE PRESIDENT: We will decline to hear you  
16 further along those lines.

17 CAPTAIN BROOKS: Will you allow me an excep-  
18 tion to the ruling?

19 THE PRESIDENT: Take any exception you  
20 like. You will not be heard any further on that  
21 this afternoon.

22 MR. JUSTICE MANSFIELD: Article 13 of the  
23 Charter which has been referred to enables an affi-  
24 davit, deposition or other signed statement to be  
25 accepted, and it does not set out that that can only

1 be accepted where a witness is not available.  
2 It is, I submit, purely following on the provision  
3 contained in Article 13a, saying that "the Tribunal  
4 shall not be bound by technical rules of evidence.  
5 It shall adopt and apply to the greatest possible  
6 extent expeditious and non-technical procedure."  
7 And in this particular instance the prosecution made  
8 an endeavor to assist the Court in that matter, and  
9 in the matter of expediting the trial offers this  
10 evidence, or this method of presenting evidence,  
11 which, I submit, will not in any way prejudice the  
12 accused.

13 The prosecution has endeavored in all cases  
14 to get evidence from persons who are present in  
15 Tokyo so that they will be available for cross-  
16 examination, as distinguished from those who could  
17 testify to a similar effect, but are not in Tokyo  
18 and would not be available for cross-examination.  
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1 DR. KIYOSÉ: As the decision given on this  
2 subject will have a grave effect on the interest of  
3 the defendants, I would like to be permitted to --  
4 to have Japanese counsel make a few remarks on this  
5 subject. Even if an affidavit is already presented,  
6 when a witness actually appears in court, there  
7 is certain to be a great gap between what he ac-  
8 tually said when he appeared in court and the affi-  
9 davit. We may easily infer this from the recent  
10 examination of the witness KAIGO by the prosecution,  
11 Before having the witness called to this court, the  
12 prosecution had probably heard all it wanted to  
13 from the witness KAIGO, but when the witness actually  
14 appeared in court the lawyer for the prosecution de-  
15 clared that what the witness was saying was com-  
16 pletely different to what he had said before. I  
17 believe that if in the case of the witness KAIGO an  
18 affidavit had already been presented, the reply  
19 given by the witness to Mr. Hammack's questions  
20 would have been different from that given in the  
21 affidavit.

22 I fully realize that the Charter of this  
23 Tribunal provides that this Tribunal shall not be  
24 bound by technical rules of evidence. I believe  
25 that the meaning of this phase is that since this

1 is a trial of the greatest importance, if the Tribunal  
2 should be bound by technical rules of evidence, it will  
3 be difficult on occasion to arrive at the truth, and  
4 as the important thing is to arrive at the truth, I  
5 believe that this provision was made only for that  
6 purpose -- that of assisting the Tribunal to gain the  
7 truth. Since this trial is the most important in  
8 history, it is necessary to proceed with the utmost  
9 care, and, therefore, in order to gain the truth it  
10 is not always fitting to be bound by technical rules.  
11 I believe that this does not mean that the Tribunal  
12 does not need to be bound by technical rules of evi-  
13 dence, if that is getting away from the truth.

14 THE PRESIDENT: DR. KIYOSÉ, you must come  
15 back to the point. We are discussing now whether  
16 the evidence of certain witnesses shall be given by  
17 affidavit, subject to cross-examination. We are not  
18 now engaged on a discussion of the terms of the  
19 Charter or of the type of trial. Your remarks have  
20 no bearing on the real question: whether we should  
21 receive these affidavits.

22 DR. KIYOSÉ: I understand.

23 THE PRESIDENT: If every point raised here  
24 is going to be submerged in a discussion of the  
25 Charter generally, we will never finish. What does

1 the Doctor think about the real question: whether  
2 these affidavits should be admitted or not?

3 DR. KIYOSÉ: I have no objection to the pre-  
4 sentation of affidavits as evidence, but I do ob-  
5 ject to the substitution of affidavits for the  
6 direct examination of the witness.

7 THE PRESIDENT: Well, I think we have heard  
8 enough from you.

9 The Court will retire for a few minutes  
10 to consider its decision.

11 (Whereupon, at 1535, a recess was  
12 taken until 1610, after which the proceed-  
13 ings were resumed as follows:)

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D u d a & W h a l e n

1 THE PRESIDENT: The Tribunal has decided  
2 to admit the affidavit evidence for the time being.  
3 We contemplate the procedure will be this: The  
4 deponent will be called in court. He will be asked  
5 whether he made the affidavit. On giving his affirm-  
6 tive reply the affidavit will be tendered and read.  
7 Then cross-examination will take place. We may have  
8 some thing to say later about limiting the cross-  
9 examination of these cases.

10 MR. WARREN: If the Tribunal please, may  
11 we have the same privilege accorded to the prosecu-  
12 tion, that is, of taking these witnesses, most of  
13 whom we understand are in the building, and taking  
14 them back into our offices and securing from them  
15 their cross-examination by affidavit and presenting  
16 it to the Tribunal in the same manner that the direct  
17 examination was secured by the prosecution?

18 THE PRESIDENT: That is just a taunt, and  
19 we ignore it.

20 MR. WARREN: I am sorry that your Honor  
21 feels that way because, sincerely, sir, I didn't mean  
22 it in that manner.

THE PRESIDENT: I took it that way.

25 MR. WARREN: I offer my humble apologies if the Tribunal thought that way, but I assure you,

sir, I didn't mean it in that manner.

1 THE PRESIDENT: I was speaking for myself.  
2  
3 I took it in that manner, but I accept your apology.

DR. KIYOSÉ: I have one request to make.

Hitherto, when the affidavits were presented to the counsel for the defense, Japanese counsel were presented only with a Japanese copy. American counsel were presented only with the English copy. To the defendants, neither the Japanese nor the English texts were given. I respectfully request that the Tribunal order the prosecution to present both the defendants and the Japanese counsel with the English and Japanese texts of the affidavit twenty-four hours before they are presented in open court.

15 THE PRESIDENT: I assume they have been in  
16 compliance with the rules in every case. It should  
17 be sufficient to give counsel or the accused a copy  
18 of the document in the language which he understands.  
19 There is no need for anything further.

20 MR. McMANUS: Mr. President, with all due  
21 respect, in view of your Honor's ruling, may I at this  
22 time on behalf of the defendant ARAKI request that my  
23 objection be noted. I had not made one before.

24 THE PRESIDENT: Your objection will appear  
25 in the record.

1                   MR. FURNESS: I would like to have my  
2 objection for SHIGEMITSU also noted in the record.

3                   CAPTAIN KLEIMAN: If it please the Tribunal,  
4 I would like to ask whether the Tribunal will require  
5 that the affidavits be written in the language that  
6 the witness understands and thereafter translated in  
7 the other language as a requisite for admissibility.

8                   THE PRESIDENT: Would you, being an American,  
9 make an affidavit in Japanese if you didn't know what  
10 it was? That would be absurd. Of course the affidavit  
11 will be in the language of the deponent.

12                  CAPTAIN KLEIMAN: Thank you.

13                  MR. HOZUMI: As counsel for the defendants  
14 KIDO and TOGO, I also desire my objection to be noted  
15 in the record.

16                  THE PRESIDENT: The objection will appear  
17 in the record.

18                  DR. KIYOSE: I desire that this objection  
19 be noted on behalf of all defendants.

20                  THE PRESIDENT: Does he represent all of  
21 them?

22                  DR. KIYOSE: Yes. In the affidavits pre-  
23 sented by the prosecution neither the signature nor  
24 the date is given.

25                  THE PRESIDENT: That material can be supplied.

1           We will adjourn now until thirty minutes  
2           past nine tomorrow morning.

3           (Whereupon at 1620, an adjourn-  
4           ment was taken until Wednesday, 19 June,  
5           1946 at 0930.)

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